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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,450	03/27/2000	Ashish Kishor Lele	U012676-7	4563

140 7590 08/29/2002

LADAS & PARRY  
26 WEST 61ST STREET  
NEW YORK, NY 10023

EXAMINER

ZALUKAEVA, TATYANA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/29/2002

91

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/537,450

Applicant(s)

LELE ET AL.

Examiner

Tatyana Zalukaeva

Art Unit

1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112, second paragraph.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 18-44.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
**TATYANA ZALUKAEVA**  
**PATENT EXAMINER**

Tatyana Zalukaeva  
Examiner  
Art Unit: 1713

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons set forth in the final rejection. The proposed amendment would not appear to overcome the prior art rejection and Applicant has provided no reason to suggest that it would.

Applicants argue that in Mertens the mole ratio is calculated for different reactants, while in the instant claims the ratio describe is for hydrophilic and hydrophobic substitutes on one and the same monomer. This is not found persuasive, because the ratio of substitute groups on one and the same monomer can not be adjusted by Applicants or anybody else, this ratio is defined by the nature of a monomer, i.e. by its chemical structure. And since the comonomer bearing both hydrophilic and hydrophobic groups are identical in the instant claims and in Mertens, this ratio is inherently the same. Furthermore, Example 3 on page 10 of the instant Specification, which Applicants rely upon as a support for the present Amendment clearly provides the mole ratio of 1.0:0.1 for two comonomers, namely t-BA and AMPS. Such ratio is taught by the Example of Mertens identified in the Final rejection.

With regard to the step of swelling a polymer, Applicants did not provide any reason why their admission that such step is routinely and conventionally used in preparation of absorbing materials cannot be used to establish prima facie case of obviousness. In the instant case the motivation to combine references comes from "three sources: the nature of the problem to be solved, the teaching of the prior art and the knowledge of persons of ordinary skill in the art", as per *In re Rouffet*, 149 F3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998).

With regard to Wesley reference, it is the Examiner's position that the instant claims are obvious over Wesley as per reasons stated in the Final rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (703) 308-8819. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

Tatyana Zalukaeva  
ExaminerArt Unit 1713

August 26, 2002

